

## **IC 6-1.1-39**

### **Chapter 39. Economic Development Districts**

#### **IC 6-1.1-39-1**

##### **Application of chapter**

Sec. 1. (a) This chapter applies to all counties, cities, and towns (referred to in this chapter as units).

(b) Notwithstanding any other law, for economic development districts established after January 1, 1992, this chapter does not apply to fire protection districts established under IC 36-8-11.

*As added by P.L.19-1985, SEC.5. Amended by P.L.1-1993, SEC.35.*

#### **IC 6-1.1-39-1.1**

##### **"Additional area" defined**

Sec. 1.1. As used in this chapter, "additional area" means an area added to an economic development district under section 6 of this chapter.

*As added by P.L.63-1991, SEC.1 and P.L.42-1992, SEC.6. Amended by P.L.1-1993, SEC.36.*

#### **IC 6-1.1-39-1.2**

##### **"Local public improvement" defined**

Sec. 1.2. As used in this chapter, "local public improvement" means sewerlines, waterlines, streets, sidewalks, bridges, roads, highways, public ways, and any related public improvements.

*As added by P.L.19-1988, SEC.5.*

#### **IC 6-1.1-39-1.5**

##### **"Industrial development program" defined**

Sec. 1.5. As used in this chapter, "industrial development program" has the meaning set forth in IC 5-28-9-3.

*As added by P.L.24-1987, SEC.11. Amended by P.L.4-2005, SEC.43.*

#### **IC 6-1.1-39-1.6**

##### **"Qualified industrial development project" defined**

Sec. 1.6. As used in this chapter, "qualified industrial development project" means an industrial development project (as defined in IC 4-4-10.9-11(a)) that has a cost of the project (as defined in IC 4-4-10.9-5) greater than one hundred million dollars (\$100,000,000).

*As added by P.L.24-1987, SEC.12.*

#### **IC 6-1.1-39-2**

##### **Designation of unit area as district; adoption of declaratory ordinance**

Sec. 2. (a) If the fiscal body of a unit finds that:

- (1) in order to promote opportunities for the gainful employment of its citizens, the attraction of a new business enterprise to the unit, the retention or expansion of a business enterprise existing within the boundaries of the unit, or the

preservation or enhancement of the tax base of the unit, an area under the fiscal body's jurisdiction should be declared an economic development district;

(2) the public health and welfare of the unit will be benefited by designating the area as an economic development district; and

(3) there has been proposed a qualified industrial development project to be located in the economic development district, with the proposal supported by:

(A) financial and economic data; and

(B) preliminary commitments by business enterprises, associations, state or federal governmental units, or similar entities that evidence a reasonable likelihood that the proposed qualified industrial development project will be initiated and accomplished;

the fiscal body may on or before the adoption deadline determined under subsection (c), adopt an ordinance declaring the area to be an economic development district and declaring that the public health and welfare of the unit will be benefited by the designation.

(b) For the purpose of adopting an ordinance under subsection (a), it is sufficient to describe the boundaries of the area by its location in relation to public ways or streams or otherwise as determined by the fiscal body.

(c) The adoption deadline referred to in subsection (a) is determined in the following manner:

(1) The initial adoption deadline is December 31, 2011.

(2) Subject to subdivision (3), the initial adoption deadline and subsequent adoption deadlines are automatically extended in increments of five (5) years, so that adoption deadlines subsequent to the initial adoption deadline fall on December 31, 2016, and December 31 of each fifth year thereafter.

(3) At least one (1) year before the date of an adoption deadline determined under subdivision (2), the general assembly may enact a law that:

(A) terminates the automatic extension of adoption deadlines under subdivision (2); and

(B) specifically designates a particular date as the final adoption deadline.

*As added by P.L.19-1985, SEC.5. Amended by P.L.24-1987, SEC.13; P.L.18-1992, SEC.23; P.L.25-1995, SEC.55; P.L.216-2005, SEC.5.*

## **IC 6-1.1-39-2.5**

### **Review of proposed project; preliminary certification**

Sec. 2.5. (a) Within thirty (30) days after the adoption of the ordinance under section 2 of this chapter, the fiscal body shall file with the Indiana economic development corporation:

(1) a copy of the ordinance;

(2) a description of the proposed industrial development program and qualified industrial development project; and

(3) other additional data and information that will enable the corporation to determine preliminarily whether the unit may

qualify for a loan from the industrial development fund established under IC 5-28-9.

(b) The Indiana economic development corporation shall review the data and related information submitted under subsection (a) to determine preliminarily whether:

- (1) the proposed project will qualify as a qualified industrial development project;
- (2) there is a reasonable likelihood that the proposed qualified industrial development project will be initiated and accomplished; and
- (3) there is a reasonable likelihood that an application by the unit under IC 5-28-9-12 for a loan from the industrial development fund to institute and administer the proposed industrial development program will be approved by the corporation and the state board of finance.

(c) If the Indiana economic development corporation preliminarily determines under subsection (b) that the proposed project does not or will not qualify as a qualified industrial development project or that there is not a reasonable likelihood that a loan from the industrial development fund will be approved under IC 5-28-9-12, the corporation shall certify this determination in writing to the fiscal body adopting the ordinance. Upon this certification, the ordinance proposing to establish the economic development district is void.

(d) If the Indiana economic development corporation preliminarily determines under subsection (b) that the proposed project qualifies or will qualify as a qualified industrial development project and that there is a reasonable likelihood that a loan from the industrial development fund will be approved under IC 5-28-9-12, the corporation shall certify this determination to the fiscal body adopting the ordinance proposing to establish the economic development district. Upon receipt of this certification, the fiscal body shall proceed to take final action with respect to the ordinance in accordance with section 3 of this chapter.

(e) A favorable preliminary certification under subsection (d) does not, however, represent or constitute a final determination by the Indiana economic development corporation and state board of finance as to whether the unit will obtain a loan from the industrial development fund in accordance with IC 5-28-9.

*As added by P.L.24-1987, SEC.14. Amended by P.L.4-2005, SEC.44.*

### **IC 6-1.1-39-3**

#### **Notice of adoption of ordinance; hearing; requisites; final action; appeal**

Sec. 3. (a) The fiscal body shall publish notice of the adoption and substance of the ordinance in accordance with IC 5-3-1 after:

- (1) the adoption of the ordinance under section 2 of this chapter; and
- (2) the fiscal body receives preliminary certification from the Indiana economic development corporation under section 2.5 of this chapter that the proposed industrial development project

qualifies as a qualified industrial development project and that there is a reasonable likelihood that a loan from the industrial development fund will be approved under IC 5-28-9-12.

The notice must state the general boundaries of the area designated as an economic development district and must state that written remonstrances may be filed with the fiscal body until the time designated for the hearing. The notice must also name the place, date, and time when the fiscal body will receive and hear remonstrances and objections from persons interested in or affected by the proceedings pertaining to the proposed economic development district designation and will determine the public utility and benefit of the proposed economic development district designation. All persons affected in any manner by the hearing, including all taxpayers of the economic development district, shall be considered notified of the pendency of the hearing and of subsequent acts, hearings, adjournments, and orders of the fiscal body affecting the economic development district if the fiscal body gives the notice required by this section.

(b) A copy of the notice of the hearing shall be filed with the office of the unit's plan commission, board of zoning appeals, works board, park board, building commissioner, and any other departments, bodies, or officers of the unit having to do with unit planning, variances from zoning ordinances, land use, or the issuance of building permits.

(c) At the hearing, which may be recessed and reconvened from time to time, the fiscal body shall hear all persons interested in the proceedings and shall consider all written remonstrances and objections that have been filed. After considering the evidence presented, the fiscal body shall take final action determining the public utility and benefit of the proposed economic development district designation and confirming, modifying and confirming, or rescinding the ordinance. The final action taken by the fiscal body shall be recorded and is final and conclusive, except that an appeal may be taken in the manner prescribed by section 4 of this chapter. *As added by P.L.19-1985, SEC.5. Amended by P.L.24-1987, SEC.15; P.L.4-2005, SEC.45.*

#### **IC 6-1.1-39-4**

##### **Appellate procedure; grounds; burden of proof**

Sec. 4. (a) A person who filed a written remonstrance with the fiscal body under section 3 of this chapter and is aggrieved by the final action taken, may, within ten (10) days after that final action, file in the office of the clerk of the circuit or superior court of the county in which the action is taken a copy of the ordinance of the fiscal body and the person's remonstrance against that ordinance, together with the person's bond as provided by IC 34-13-5-7, if the appeal is determined against the person. The only ground of remonstrance that the court may hear is whether the proposed economic development district designation will be of public utility and benefit. The burden of proof is on the remonstrator.

(b) An appeal under this section shall be promptly heard by the court without a jury. All remonstrances upon which an appeal has been taken shall be consolidated and heard and determined within thirty (30) days after the time of the filing of the appeal. The court shall decide the appeal based on the record and evidence before the fiscal body, not by trial de novo, and may confirm the final action of the fiscal body or sustain the remonstrances. The judgment of the court is final and conclusive, unless an appeal is taken as in other civil actions.

*As added by P.L.19-1985, SEC.5. Amended by P.L.1-1998, SEC.77.*

#### **IC 6-1.1-39-5**

##### **Allocation and distribution of property taxes; assessed value of taxable property; rules; forms**

Sec. 5. (a) A declaratory ordinance adopted under section 2 of this chapter and confirmed under section 3 of this chapter must include a provision with respect to the allocation and distribution of property taxes for the purposes and in the manner provided in this section. The allocation provision must apply to the entire economic development district. The allocation provisions must require that any property taxes subsequently levied by or for the benefit of any public body entitled to a distribution of property taxes on taxable property in the economic development district be allocated and distributed as follows:

(1) Except as otherwise provided in this section, the proceeds of the taxes attributable to the lesser of:

(A) the assessed value of the property for the assessment date with respect to which the allocation and distribution is made; or

(B) the base assessed value;

shall be allocated to and, when collected, paid into the funds of the respective taxing units. However, if the effective date of the allocation provision of a declaratory ordinance is after March 1, 1985, and before January 1, 1986, and if an improvement to property was partially completed on March 1, 1985, the unit may provide in the declaratory ordinance that the taxes attributable to the assessed value of the property as finally determined for March 1, 1984, shall be allocated to and, when collected, paid into the funds of the respective taxing units.

(2) Except as otherwise provided in this section, part or all of the property tax proceeds in excess of those described in subdivision (1), as specified in the declaratory ordinance, shall be allocated to the unit for the economic development district and, when collected, paid into a special fund established by the unit for that economic development district that may be used only to pay the principal of and interest on obligations owed by the unit under IC 4-4-8 (before its repeal) or IC 5-28-9 for the financing of industrial development programs in, or serving, that economic development district. The amount not paid into the special fund shall be paid to the respective units in the

manner prescribed by subdivision (1).

(3) When the money in the fund is sufficient to pay all outstanding principal of and interest (to the earliest date on which the obligations can be redeemed) on obligations owed by the unit under IC 4-4-8 (before its repeal) or IC 5-28-9 for the financing of industrial development programs in, or serving, that economic development district, money in the special fund in excess of that amount shall be paid to the respective taxing units in the manner prescribed by subdivision (1).

(b) Property tax proceeds allocable to the economic development district under subsection (a)(2) must, subject to subsection (a)(3), be irrevocably pledged by the unit for payment as set forth in subsection (a)(2).

(c) For the purpose of allocating taxes levied by or for any taxing unit or units, the assessed value of taxable property in a territory in the economic development district that is annexed by any taxing unit after the effective date of the allocation provision of the declaratory ordinance is the lesser of:

- (1) the assessed value of the property for the assessment date with respect to which the allocation and distribution is made; or
- (2) the base assessed value.

(d) Notwithstanding any other law, each assessor shall, upon petition of the fiscal body, reassess the taxable property situated upon or in, or added to, the economic development district effective on the next assessment date after the petition.

(e) Notwithstanding any other law, the assessed value of all taxable property in the economic development district, for purposes of tax limitation, property tax replacement (except as provided in IC 6-1.1-21-3(c), IC 6-1.1-21-4(a)(3), and IC 6-1.1-21-5(c)), and formulation of the budget, tax rate, and tax levy for each political subdivision in which the property is located is the lesser of:

- (1) the assessed value of the property as valued without regard to this section; or
- (2) the base assessed value.

(f) The state board of accounts and department of local government finance shall make the rules and prescribe the forms and procedures that they consider expedient for the implementation of this chapter. After each general reassessment under IC 6-1.1-4, the department of local government finance shall adjust the base assessed value one (1) time to neutralize any effect of the general reassessment on the property tax proceeds allocated to the district under this section. However, the adjustment may not include the effect of property tax abatements under IC 6-1.1-12.1.

(g) As used in this section, "property taxes" means:

- (1) taxes imposed under this article on real property; and
- (2) any part of the taxes imposed under this article on depreciable personal property that the unit has by ordinance allocated to the economic development district. However, the ordinance may not limit the allocation to taxes on depreciable personal property with any particular useful life or lives.

If a unit had, by ordinance adopted before May 8, 1987, allocated to an economic development district property taxes imposed under IC 6-1.1 on depreciable personal property that has a useful life in excess of eight (8) years, the ordinance continues in effect until an ordinance is adopted by the unit under subdivision (2).

(h) As used in this section, "base assessed value" means:

(1) the net assessed value of all the property as finally determined for the assessment date immediately preceding the effective date of the allocation provision of the declaratory resolution, as adjusted under subsection (f); plus

(2) to the extent that it is not included in subdivision (1), the net assessed value of property that is assessed as residential property under the rules of the department of local government finance, as finally determined for any assessment date after the effective date of the allocation provision.

Subdivision (2) applies only to economic development districts established after June 30, 1997, and to additional areas established after June 30, 1997.

*As added by P.L.19-1985, SEC.5. Amended by P.L.24-1987, SEC.16; P.L.86-1987, SEC.5; P.L.255-1997(ss), SEC.6; P.L.90-2002, SEC.272; P.L.4-2005, SEC.46.*

#### **IC 6-1.1-39-6**

##### **Enlargement of districts; additional property tax credits**

Sec. 6. (a) An economic development district may be enlarged by the fiscal body by following the same procedure for the creation of an economic development district specified in this chapter. Property taxes that are attributable to the additional area and allocable to the economic development district are not eligible for the property tax replacement credit provided by IC 6-1.1-21-5. However, subject to subsection (c) and except as provided in subsection (f), each taxpayer in an additional area is entitled to an additional credit for taxes (as defined in IC 6-1.1-21-2) that under IC 6-1.1-22-9 are due and payable in May and November of that year. Except as provided in subsection (f), one-half (1/2) of the credit shall be applied to each installment of taxes (as defined in IC 6-1.1-21-2). This credit equals the amount determined under the following STEPS for each taxpayer in a taxing district in a county that contains all or part of the additional area:

STEP ONE: Determine that part of the sum of the amounts under IC 6-1.1-21-2(g)(1)(A) and IC 6-1.1-21-2(g)(2) that is attributable to the taxing district.

STEP TWO: Divide:

(A) that part of the county's eligible property tax replacement amount (as defined in IC 6-1.1-21-2) for that year as determined under IC 6-1.1-21-4 that is attributable to the taxing district; by

(B) the STEP ONE sum.

STEP THREE: Multiply:

(A) the STEP TWO quotient; times

(B) the total amount of the taxpayer's taxes (as defined in IC 6-1.1-21-2) levied in the taxing district that would have been allocated to a special fund under section 5 of this chapter had the additional credit described in this section not been given.

The additional credit reduces the amount of proceeds allocated to the economic development district and paid into a special fund under section 5(a) of this chapter.

(b) If the additional credit under subsection (a) is not reduced under subsection (c) or (d), the credit for property tax replacement under IC 6-1.1-21-5 and the additional credit under subsection (a) shall be computed on an aggregate basis for all taxpayers in a taxing district that contains all or part of an additional area. The credit for property tax replacement under IC 6-1.1-21-5 and the additional credit under subsection (a) shall be combined on the tax statements sent to each taxpayer.

(c) The county fiscal body may, by ordinance, provide that the additional credit described in subsection (a):

- (1) does not apply in a specified additional area; or
- (2) is to be reduced by a uniform percentage for all taxpayers in a specified additional area.

(d) Whenever the county fiscal body determines that granting the full additional credit under subsection (a) would adversely affect the interests of the holders of bonds or other contractual obligations that are payable from allocated tax proceeds in that economic development district in a way that would create a reasonable expectation that those bonds or other contractual obligations would not be paid when due, the county fiscal body must adopt an ordinance under subsection (c) to deny the additional credit or reduce the additional credit to a level that creates a reasonable expectation that the bonds or other obligations will be paid when due. An ordinance adopted under subsection (c) denies or reduces the additional credit for taxes (as defined in IC 6-1.1-21-2) first due and payable in any year following the year in which the ordinance is adopted.

(e) An ordinance adopted under subsection (c) remains in effect until the ordinance is rescinded by the body that originally adopted the ordinance. However, an ordinance may not be rescinded if the rescission would adversely affect the interests of the holders of bonds or other obligations that are payable from allocated tax proceeds in that economic development district in a way that would create a reasonable expectation that the principal of or interest on the bonds or other obligations would not be paid when due. If an ordinance is rescinded and no other ordinance is adopted, the additional credit described in subsection (a) applies to taxes (as defined in IC 6-1.1-21-2) first due and payable in each year following the year in which the resolution is rescinded.

(f) This subsection applies to an additional area only to the extent that the net assessed value of property that is assessed as residential property under the rules of the department of local government



finance is not included in the base assessed value. If property tax installments with respect to a homestead (as defined in IC 6-1.1-20.9-1) are due in installments established by the department of local government finance under IC 6-1.1-22-9.5, each taxpayer subject to those installments in an additional area is entitled to an additional credit under subsection (a) for the taxes (as defined in IC 6-1.1-21-2) due in installments. The credit shall be applied in the same proportion to each installment of taxes (as defined in IC 6-1.1-21-2).

*As added by P.L.19-1985, SEC.5. Amended by P.L.42-1992, SEC.7; P.L.192-2002(ss), SEC.46; P.L.1-2004, SEC.48 and P.L.23-2004, SEC.51.*

#### **IC 6-1.1-39-7**

##### **Allocation areas; declaration as part of district prohibited**

Sec. 7. No area shall be declared part of an economic development district if it has already been declared an allocation area under IC 36-7-14 or IC 36-7-15.1.

*As added by P.L.19-1985, SEC.5.*

#### **IC 6-1.1-39-8**

##### **Expiration of district designation**

Sec. 8. If no loans have been made to a unit under IC 4-4-8 (before its repeal) or IC 5-28-9 for the financing of industrial development programs in an economic development district within two (2) years from the date of the ordinance confirming the establishment of that district, or if money in the special fund established by the unit for that district is sufficient to pay all principal of and interest on and the performance of all other obligations by a unit on all loans made under IC 4-4-8 (before its repeal) or IC 5-28-9 for the financing of industrial development programs in, or serving, an economic development district, then the economic development district designation expires.

*As added by P.L.19-1985, SEC.5. Amended by P.L.24-1987, SEC.17; P.L.19-1988, SEC.6; P.L.4-2005, SEC.47.*

#### **IC 6-1.1-39-9**

##### **Industrial development program obligations; ordinance; proceeds of obligation**

Sec. 9. (a) The fiscal body of a unit may by ordinance authorize the issuance of obligations to the department of commerce under IC 4-4-8 (before its repeal) or to the Indiana economic development corporation under IC 5-28-9 payable solely from taxes allocated under section 5 of this chapter. Any obligations issued and payable from taxes allocated under section 5 of this chapter are not general obligations of the unit that established the economic development district under this chapter.

(b) The economic development district created by a unit under this chapter is a special taxing district authorized by the general assembly to enable the unit to provide special benefits to taxpayers

in the economic development district by providing local public improvements that are of public use and benefit.

(c) The ordinance of a unit authorizing the issuance of obligations must contain a finding of the fiscal body that the proposed industrial development program:

- (1) constitutes a local public improvement;
- (2) provides special benefits to property owners in the district; and
- (3) will be of public use and benefit.

(d) Proceeds of obligations issued under this section, IC 4-4-8 (before its repeal), and IC 5-28-9 may be used to pay for the following:

- (1) The cost of local public improvements.
- (2) Interest on the obligations for the period of construction of the local public improvements plus one (1) year after completion of construction.
- (3) Reasonable debt service reserves.
- (4) Costs of issuance of the obligations.
- (5) Any other reasonable and necessary expenses related to issuance of the obligations.

(e) Notwithstanding any other law, IC 6-1.1-20 does not apply to obligations payable solely from tax proceeds allocated under section 5 of this chapter.

*As added by P.L.19-1988, SEC.7. Amended by P.L.4-2005, SEC.48.*